

VOLUME 2B

New Renewable Resources Account Implementation of Auction Results

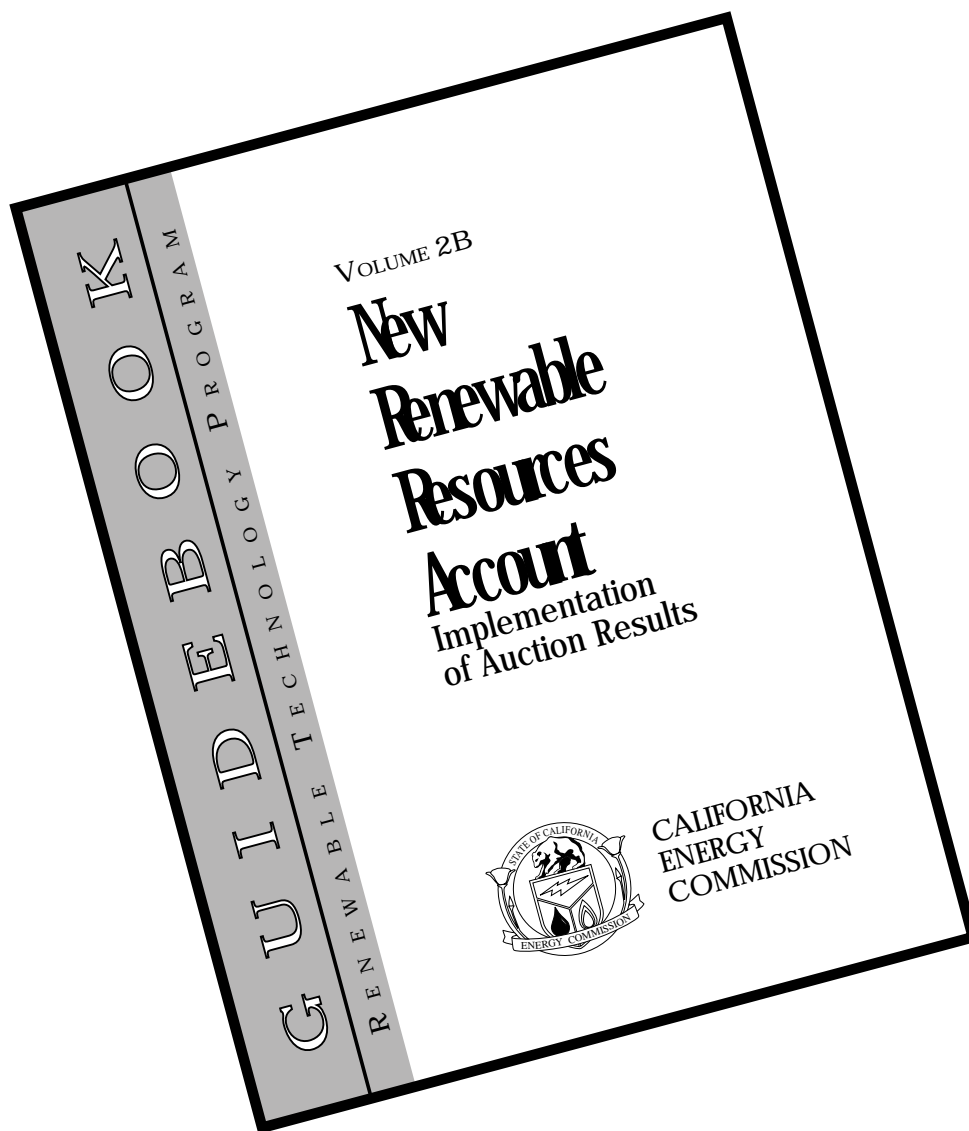
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CALIFORNIA
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Preface

The initial guidebook for the New Renewable Resources Account was formally adopted by the California Energy Commission on January 21, 1998, pursuant to Senate Bill 90 (Chapter 905, Statutes 1997).

This volume updates and replaces *Volume 2 - New Renewables Resources Account* of the guidebook. It differs from the original Volume 2 by (1) providing more specific instructions for completing Quarterly reports, Project Award Packages (PAPs) (Milestone 1), and Milestones 2 through 6 for new renewable energy producers who successfully bid in the New Renewable Resources Account auction of the Renewable Resource Trust Fund and by (2) omitting instructions for participation in the Auction, which was held on June 5, 1998. This volume is based, in part, on the March 1998 *Notice of Auction* (NOA) No. 500-97-506, Amended May 11, 1998, (AD-1) and May 28, 1998 (AD-2); the *Guidebook for the Renewable Technology Program, Volume 2 - New Renewable Resources Account*, Publication No. P500-97-011V2, and Chapter 3 of the *Overall Guidelines for the Renewable Resource Trust Fund*, Publication No. P500-97-012. For more detailed information on the Renewable Resource Trust Fund, please see the Energy Commission's *Policy Report on AB 1890 Renewables Funding*, Publication No. P500-97-002. All Energy Commission reports may be obtained through the California Energy Commission's Publications Office at (916) 654-5200, and on the Energy Commission's Web Site at: <www.energy.ca.gov>.

Introduction

Assembly Bill 1890 (AB 1890), enacted on September 23, 1996, provides \$540 million for the support of renewable electricity generation technologies. These funds will be collected from the ratepayers of the three largest investor-owned utilities in California from 1998 through March 31, 2002, to support existing, new, and emerging renewable electricity generation technologies. As part of the requirements of AB 1890, the California Energy Commission (Commission) submitted a Policy Report¹ to the Legislature with recommendations for allocating the \$540 million.

Senate Bill 90 (SB 90), enacted on October 12, 1997, establishes the **Renewable Resource Trust Fund**, and contains explicit directions for distributing this fund through four distinct accounts: Existing Renewables Resources Account, New Renewable Resources Account, Emerging Renewable Resources Account, and Customer-Side Renewable Resource Purchases Account. Table 1 shows the percentage funding allocations by year.

¹ *Policy Report on AB 1890 Renewables Funding*, published March 1997, publication number 500-97-002.

Table 1
Yearly Allocations to Renewable Technologies²

| Account | 1998 | 1999 | 2000 | 2001 | Overall | (in millions) |
|-----------------------|-------------|-------------|-------------|-------------|----------------|----------------------|
| Existing Technologies | 57% | 49% | 41% | 33% | 45% | \$243 |
| New Technologies | 24% | 28% | 32% | 36% | 30% | \$162 |
| Emerging Technologies | 10% | 10% | 10% | 10% | 10% | \$54 |
| Customer-Side | 9% | 13% | 17% | 21% | 15% | \$81 |

To assist program participants in applying for funding from the various accounts, we have developed this ***Guidebook for the Renewable Technology Program***. The guidebook is divided into four volumes, each corresponding to an account in the **Renewables Resource Trust Fund**:

- Volume 1 -- Existing Renewable Resources Account
- Volume 2 -- New Renewable Resources Account
- Volume 3 -- Emerging Renewable Resources Account
- Volume 4 -- Customer Credit Subaccount of the Customer-Side Renewable Resource Purchases Account

This volume, Volume 2B, is intended as an update of Volume 2. It provides specific instructions for completing Quarterly reports, Project Award Packages (Milestone 1), and Milestones 2 through 6 for new renewable energy producers who successfully bid in the New Renewable Resources Account auction of the Renewable Resource Trust Fund.

Overview Of The New Renewable Resources Account

Project proponents in the New Renewable Resources Account competed for the \$162 million allocated funds by submitting bids on June 5, 1998, in an auction to receive a fixed, generation-based production incentive. Eligible bids in the auction were ranked from lowest cents per kilowatt-hour incentive request to highest. Beginning with the lowest request, eligible bids were accepted until funds were fully allocated. Auction winners were notified in writing on July 10, 1998, that their projects had been accepted as eligible for funding.

Winners must receive approval of their Project Award Package from the Commission (Milestone 1), pass post-auction permitting and construction milestones, submit

² These percentages apply to \$135 million dollars annually for four years as assumed in the ***Policy Report on AB 1890 Renewables Funding***. Due to the fact that \$135 million will not be collected in the early years, it may be necessary to borrow some funds from one account in order to make payments in another account equal to the absolute amounts expected annually. This will only be done if the account from which money is being borrowed is not adversely affected. All funds borrowed will be returned to their appropriate account.

quarterly reports, and begin operating as an eligible renewable generator prior to receiving any incentive payments. These milestones and reports will help Commission staff track the progress of projects and identify those that may have difficulty becoming operational. Individual project schedules or milestones may vary depending on the site location or the technology involved.

After coming on-line, project proponents submit monthly invoices to the Commission documenting the sale of their generation during the first five applicable years of operation after a project is developed. Winning projects are expected to come on-line as an eligible renewable generator prior to January 1, 2002; those that come on-line after that date may have their awards terminated by the Commission. In no case will they receive incentive payments for generation beyond December 31, 2006.³

Project Award Packages

The first milestone for all projects is the preparation and adoption of a Project Award Package (PAP). Winning bidders and Commission staff will work together to develop a PAP for each winning project. The PAP will document the winning project's eligibility and status as auction winner; describe any changes to the bid proposed; provide a detailed description of the project site location; identify all necessary project permits, financial information and pertinent project characteristics; and outline applicable milestones and expected project schedule(s). A Funding Award Agreement, prepared by Commission staff, will be issued after the PAP is submitted and reviewed, and a copy will be included in the final PAP. The Funding Award Agreement will include the Commission staff's project determination pursuant to the California Environmental Quality Act (CEQA).⁴

The PAPs will serve as the basis for adoption of the awards for each project at a publicly-noticed Commission hearing. **Winning projects must have their Project Award Packages adopted by June 4, 1999 (one year from the date of the auction).** The Commission believes that a typical PAP can be adopted within two months of

³ Projects that include a fossil-fuel component will not be considered to be on-line as an eligible renewable generator until they meet the requirement of using no more than 25 percent fossil fuel in their operation. The content of all fossil fuels used, in the aggregate, may not exceed 25 percent of the total energy input of the facility during a given calendar year consistent with Title 18 of CFR, Section 292.204[b]. Winning projects that were on-line prior to receiving their award will submit invoices and receive incentive payments during the first five years after receiving the award.

⁴ CEQA determinations are required when the Commission is making discretionary decisions to approve or help finance, in whole or in part, projects that have a potential significant environmental effect. Staff will review individual projects, and determine whether the projects have already complied with CEQA (as in the case of projects which have already obtained their environmental and land-use permits), whether the projects are exempt from CEQA and the basis for such exemption, or whether the project is subject to a formal environmental study under CEQA, in which case staff will identify the lead agency and the proposed schedule for the lead agency's environmental study and preparation of related documents. In the event a formal environmental study under CEQA is required, approval of PAPs may be explicitly conditioned on the lead agency's CEQA study and approval of the project.

formal submittal of a package, but more time may be necessary when a large number of PAPs are being processed simultaneously or when significant issues arise for a specific project. In addition, the Commission recognizes that the time required to prepare a PAP for submittal can vary significantly. Projects whose eligibility to receive payments from the New Renewable Resources Account was clear prior to the auction may be able to prepare award packages sooner than those who must take actions to establish payment eligibility after the auction. For example, winning bidders with existing SO₂, ISO₄, or similar negotiated utility contracts must terminate those contracts to be eligible to receive incentive payments.

Adoption of a PAP will effectively encumber the expected total payments to a project, subject to completion of all milestones, generation of eligible renewable kilowatt-hours, and any applicable penalties. Project proponents whose PAPs have been adopted will have one half (1/2) of their bid bonds returned or cleared within two months. The remaining one half (1/2) of their bid bonds will be returned or cleared within two months of the Commission staff's certification of passage of Milestone 2.

A description of the information required and general instructions for preparing a PAP follows. Please be aware that the PAP description was designed to address a wide range of renewable technology types; as such, some information requested may not apply to all projects. In these cases, a simple statement explaining the inapplicability of the information requested is sufficient. In most cases, however, the information requested will apply to specific projects to some degree.

Please note that the PAP will be a public document that may be reviewed by any member of the public. Once the PAP is completed and scheduled for adoption by the Commission, a Notice of Availability for the complete package will be mailed to interested parties who may choose to review and comment. For this reason, no confidential information should be included in the PAP.

Quarterly Reports Prior to Filing Project Award Packages

Project proponents that have not previously filed a PAP with the Commission should follow a shortened Quarterly report format. These project proponents should submit a letter indicating when they expect to file their PAP and discussing any prefiling issues. These letters are due on the last business day of each quarter, until the project proponent files a PAP (e.g., December 31, 1998 and March 31, 1999). Since winning project proponents must have filed their PAPs, and the Commission adopt them by June 4, 1999, the shortened Quarterly report format is not applicable after the March 31, 1999, submittal.

Changes in Project from Bid Proposal

Projects are expected to go forward to completion as presented in their original bid proposal. The Commission, however, recognizes that some project changes may be required due to unforeseen events or become apparent as projects are further defined in the PAP. The PAP must clearly indicate **any** changes relative to the original bid proposal. Changes, such as (but not limited to) changes or proposed changes in ownership⁵, project location, renewable technology, project capacity, status of site control, financing structure or agreements, or the project's anticipated on-line date, require explanation. Changes staff determines to be significant are subject to Commission approval. The explanation of changes should be included in the section containing documentation of the project's status as an auction winner. **Please note that the incentive payment level and kilowatt-hours of renewable generation contained in the project's original bid cannot change.**

Project Description

The PAP must contain a complete technical description of the proposed project (as expected by the project developer) in narrative form (with reference to tables, diagrams, etc., where appropriate) that includes the following:

- Technical specifications of the proposed generation and transmission facilities, including type, size, and capacity.
- Description of any related structural facilities (any facilities involved in the electricity generation or transmission portion of the project) or required land uses.
- Technical characteristics of the fuel or power source to be used, including expected fuel source, amount, and composition, and any characteristics unique to a particular technology (e.g., expected wind speeds or direction for wind facilities).
- Description of pollution control systems for the project (identify as Best Available Control Technology, if applicable).
- Description of any environmental mitigation issues (e.g., habitat impacts).
- Description of the water supply and discharge facilities, including source, amount, and any issues surrounding discharge (e.g., environmental impacts).
- Description of expected project operation and electrical power generation over the first five years of the project, including amounts and pattern of generation (load profile), potential maintenance schedules, and maintenance and/or forced outage

⁵ Changes in the project's ownership which do not affect the project's eligibility or otherwise alter the project as bid in the auction, may be made prior to the adoption of a PAP subject to the Commission's advance written approval. Said approval is discretionary and does not guarantee the adoption of a PAP or issuance of a Funding Award Agreement. The Commission's approval will be based on the proponent's demonstration of the project's continued eligibility and unaltered status, and may be conditioned on the existing and new owner's indemnification of the Commission, the substitution of a new bid bond, and the satisfaction of other conditions intended to protect the Commission and ensure compliance with these guidelines and the NOA.

rates. Any major scheduled outages or expected deferred maintenance in the five years when incentives are expected to be paid should be noted and discussed.

Project Location

The PAP shall include a detailed description of the project location and surrounding locations, including:

- A legal description of the proposed project site and related facilities by section, township, range, county, and assessor's parcel number(s).
- A description of the land-uses of the property in the year prior to construction of the proposed project.
- A description of the land-uses of property surrounding the proposed project location, if available, and of any issues that may arise in relation to surrounding property (if no issues known, so state).
- A description of the project's fuel and water supply and discharge locations, if applicable, and any issues associated with these locations (if no issues known, so state).
- A description of the expected interconnection and transmission routes available for or to the project, including discussion of whether any new facilities would be constructed or whether existing facilities suffice.
- Maps depicting the project site, the immediate vicinity, and general region, including a clear indication on the maps of the location of the proposed project and related facilities.

Financial Information

The PAP shall include a list of all financiers, owners, and operators of the project site(s) and the project-related facilities, including any expectations that the project in question will be sold to other owners or will be operated by some entity other than the bidder prior to or while receiving incentive payments. The PAP shall include a discussion of construction financing as well as any financing necessary during project operation including any financing issues that may affect the project, such as: the perceived need for long-term sales contracts in order to get financing; risk premiums or interest rate premiums; provision to allocate excess revenue or shortfalls in revenue; or key dates or data that will determine financing prospects. For purposes of executing the Commission's Funding Award Agreement, the PAP shall also identify those individuals and/or entities with signature authority to legally bind and obligate the project.

The financial description should also include estimates of the capital costs of the project, separately for generating equipment and other project components (field development, legal, environmental, transmission, etc.) and operations and

maintenance costs (fixed and variable) if available and **not confidential. Do not include confidential information in the PAP.** The Commission may return to project developers in the future with data requests or surveys asking for more detailed financial information which may or may not be considered confidential.

Expected Project Schedule

The PAP shall include a detailed description of the project permitting and construction schedule, tied to the expected achievement of Milestones 2 through 6 (see Table 2). The second through the sixth milestones are points during the pre-construction and construction phases of a project where progress can be demonstrated. PAPs should include an appropriate definition of Milestone 5, specific to the project in question. After the sixth and final milestone, the project must be on-line and producing eligible electricity for sale.

The PAP shall include a milestone and schedule table specifically defining each milestone (for example, indicating what permits are associated with Milestone 2), listing the expected date of achieving each milestone, and specifying any important dates between milestones. The milestone table should be considered a summary of the project schedule; additional information and intermediate dates should be provided in a more detailed schedule table or chart.

Description of Necessary Project Permits

The PAP shall contain a detailed listing of all expected project-related permits, licenses, and approvals from federal, state, regional and/or local agencies needed to construct and operate the project. For each permit, license, and approval, provide the name of the permitting agency, its address, the name and telephone number of the contact person, the date of application (actual or intended), and the anticipated approval date. Any specific environmental, land-use, siting, or other permitting issues pertinent to the project should be discussed. The PAP shall also indicate which permits are expected to be covered in Milestone 2 and to be monitored in the Quarterly reports. The list of permits, licenses, and approvals should be an expanded version of the information provided in the project's original bid. Copies of any permits already obtained should be included in the PAP. Copies of future permits should be forwarded to the Commission project manager or with the next Quarterly report, once they have been obtained.

Eligibility To Receive Incentive Payments

The PAP shall include evidence of the project's eligibility to receive payments from the New Renewable Resources Account.⁶ Items 1 through 3 below were demonstrated by the project's acceptance in the auction, and are only included here for completeness. A simple statement declaring that the project has not changed with regard to the first three eligibility criteria from the project's bid proposal is sufficient documentation. For item 5 (sale to eligible customers), a statement of intent to sell to eligible customers or entities like the PX, in lieu of identification of actual customers, is sufficient. Items 4, 6, 7, and 8 are project-specific and may be satisfied by statements of (1) non-applicability, (2) intent to follow the criteria, and/or (3) verifiable descriptions of how compliance will work (such as for projects requiring proof of separate metering). Reference to other sections of the PAP may be made to shorten and simplify this section if those other sections contain the detailed descriptive information needed (e.g., description of metering).

1. The physical equipment comprising the eligible project must be either: a) wholly located within California, or b) if not wholly within the State, a separable improvement or enhancement to an operating existing facility that meets the definition of "in-state renewable electric generation technology" contained in Public Utilities Code 383.5(a).
2. The eligible project must use one (or more) of the following energy sources to generate electricity: solid-fuel biomass, digester gas, geothermal, hydropower with a generating capacity of 30 megawatts or less, municipal solid waste, photovoltaics, solar thermal, waste tire, or wind.
3. The eligible project must either be:
 - First placed in operation (generating electricity) on or after September 26, 1996; or
 - Repowered on or after September 26, 1996, such that at least 80 percent of the fair market value of the project derives from new generation equipment installed as part of the repowering, and the project has no energy being sold under existing Standard Offer 2 or Interim Standard Offer 4 contracts, or negotiated contracts with similar terms that provide above-market fixed energy and/or capacity payments; or
 - A separable improvement to or enhancement of an operating existing facility that was first placed in operation prior to September 26, 1996, such that the proposed incremental generation is contractually available for sale, metered separately than existing generation at the facility, and the project has no energy

⁶ Demonstration of eligibility in the PAP does not imply guaranteed eligibility in advance for each monthly invoice. The Commission will require an attached third-party invoice serving as proof of eligible generation sold (or an equivalent alternative) with each monthly invoice to the account, and may periodically re-verify project eligibility.

being sold under a utility contract that provides long-term fixed energy or capacity payments. Any enhancements of fuel source that increase generation at an existing facility, without the construction of a new or repowered, separately metered, generating unit, are not eligible to participate.

4. Any projects that involve existing Standard Offer 2, Interim Standard Offer 4, or similar negotiated contracts with utilities that provide above-market fixed energy and/or capacity payments must terminate their contracts to assure payment eligibility.⁷ These project proponents must provide verifiable evidence to the Commission that they are no longer associated with these contracts prior to receiving approval of their awards.⁸ Verifiable documentation shall include but not be limited to a written release provided by the bidder that allows Commission staff to independently verify with the utility, without being in violation of any confidentiality agreements, that the disassociation agreement submitted by the successful bidder is considered final by parties to the agreement. Projects that have Standard Offer 1 or Standard Offer 3 contracts and also meet the other eligibility requirements, may receive production incentives while remaining in these contracts.
5. Project proponents must provide a signed statement of intent to sell to qualifying customers, to the Power Exchange, or to another scheduling coordinator, or, if available, provide contracts or agreements with potential customers to assure payment eligibility. Projects must be intended to produce electricity sold to end-use customers in a manner that does not exclude any applicable competitive transition charge (CTC).⁹ The key word here is “applicable.” For example, the sale of electricity to an out-of-state customer, or to customers within the service territory of a municipal or other local publicly-owned electricity utility not covered by CTC, is allowed, as long as the electricity involved is not self-generation or part of an over-the-fence transaction for the power. Similarly, sales are allowed to customers of utilities that do not have a CTC or equivalent charge (are not recovering uneconomic costs), and to customers of utilities that have finished collecting and are no longer charging CTC. Sales to the Power Exchange, other scheduling coordinators, and wholesale electricity providers are also allowed. However, if a customer is located within the service territory of an investor-owned utility, but is a direct access customer of a municipal or other local publicly-owned utility that is receiving CTC exemptions allowed by AB 1890 for such transactions, energy sales to that customer are not eligible for payment.

⁷ For these projects, and for repowered projects, the term “existing” means contracts entered into prior to October 12, 1997, the date of passage of SB 90 (for example any utility ISO4 and SO2 contracts). Fixed price contracts entered into after this date are likely to reflect expectations of prices in the competitive electricity market, and hence are allowed.

⁸ Participation in the auction was allowed with these contracts, but winners must terminate the contracts to become eligible for payments. The contracts must be terminated prior to satisfying Milestone 1.

⁹ Electricity that is used on-site, or is otherwise excluded from applicable CTC payments, is not eligible to receive incentive payments from the New Renewable Resources Account.

6. Projects owned by electric utilities must be sold or be equivalently separated, as defined herein, from the utilities' regulated business as determined by the Commission to ensure payment eligibility.¹⁰ It is acceptable to identify in Milestone 1, under article 10 of the funding agreement, a date certain when a sale or proof of equivalent separation would occur, but this date must be prior to Milestone 6, or April 30, 2000, whichever is earliest. Proof of equivalent separation requires, at a minimum, an official utility statement acknowledging that the project's costs are separated from the utility costs and not charged back to the utility ratepayers directly or indirectly in any form or manner. This utility statement shall be filed with the Commission and with each Public Utility Commission or equivalent entity with jurisdiction over the utility stating the utility's intent not to ratebase or otherwise recover project costs from the utility's ratepayers.
7. Projects with affiliated components participating in the Existing Renewable Resources Account or Emerging Renewable Resources Account, or whose generation may otherwise be commingled with such generation, must have their New Renewable Resources Account components separately metered, or equally distinguishable, to assure payment eligibility. Project proponents are responsible for provision and cost of such guaranteed methods of distinguishing between eligible and ineligible generation.¹¹
8. Projects with a fossil fuel component must document in the PAP that the fossil fuel component will comprise no more than 25 percent of the total annual generation from the project, as determined on a total energy input basis. As a project begins operation, if a break-in period is expected where more than 25 percent fossil fuel will be required, the project proponent must document the need for, and length of, this period. A project will not be considered on-line as an eligible renewable project until this period ends.

¹⁰ The Commission's Policy Report recommends that renewable facilities owned by utilities be excluded from receiving funds from the Renewable Resources Trust Fund, including the New Renewable Resources Account, unless the facilities have been divested to operate in the direct access market as private market generators. For purposes of participation in the New Account, however, utilities may own projects directly or through their affiliates if the Commission determines that the projects and their costs are equivalently separated from the utilities' regulated business so as to be deemed private market generators.

¹¹ To prevent any project from receiving funds from both the Existing and New accounts, any production incentives that winning projects receive or have received from the Existing Renewable Resources Account will be subtracted from any New Renewable Resources Account award they receive. It would be unfair for a project to participate materially in the Existing Renewable Resources Program for a significant period of time and then repower and participate materially in the New Renewable Resources Program, effectively receiving up to nine years of incentive payments. Funds that such projects receive as existing projects are considered to be expended from the Existing Account. Awards from the New Account will be adjusted to reflect these previously received funds, but this adjustment does not imply that Existing Account Funds are being used to support new projects.

Documentation of Status As Auction Winner

In this section of the PAP individual project proponents shall either state that the project is unchanged from the bid submitted or provide a listing of the changes between the bid and the PAP. Changes such as those described at the top of page 5 shall be accompanied by an explanation of the changes. Changes staff determines to be significant are subject to Commission approval.

After submittal, Commission staff will include two items in the PAP, a copy of the Public Notice announcing the conditional funding award winners prepared by Commission staff and signed by the Renewable Program Committee, and a copy of the letter prepared by Commission staff and signed by the Contracts Office Manager, notifying the individual bidders that their bid was accepted as eligible for funding. These copies will be provided to the individual project proponents by Commission staff.

Submitting the Project Award Package

Once the PAP is completed, please send one signed original (including all fold-out maps, blueprints, and technical diagrams, etc.), plus two complete copies (including all fold-out maps, blueprints, and technical diagrams, etc.), and one photocopy-ready copy to:

**California Energy Commission
Renewable Technology Program, Attn: Connie Bruins
1516 Ninth Street, MS-45
Sacramento, CA 95814-5512**

The package should be accompanied by a submittal cover letter signed by the project's authorized representative. The original package must also contain the original of the overall PAP declaration (included in the forms section at the end of this document) also signed by the authorized representative for the project.

After the completed PAP is received by the Commission, an acknowledgment letter will be mailed to the project contact person identifying the Commission project manager assigned to that particular project. Commission staff will then review the package and identify any remaining issues or need for additional information. Staff may identify outstanding issues and/or the need for additional information in letter format and request a response, in writing, for consideration by the Renewables Program Committee (Committee) prior to a public hearing. The package will then be considered for approval at a Committee hearing. As part of the adoption hearing, a Notice of Hearing and a Notice of Availability will be mailed to interested parties 10 days before the hearing date. Any member of the public may request a copy of the

entire PAP. Once approved by the Committee, the package will be scheduled for adoption at either a regularly scheduled Commission Business Meeting or a full Commission hearing scheduled for this purpose.

Project representatives should attend both the Committee hearing and the Commission Business Meeting. These are public meetings and as such, unforeseen issues may arise that must be addressed by the project representatives. Project proponents will be notified in advance of the dates of Committee hearing(s) and Commission Business Meeting(s).

Once the PAP is adopted by the full Commission and the funding award agreement is signed by the appropriate project representative and the Commission, Milestone 1 is considered to be completed, and 1/2 of the project's bid bond will be returned (within two months of the date the Funding Award Agreement is signed). For project proponents that submitted a single bid bond, such as a single letter of credit, the project proponent must replace the bid bond with an equivalent bond of half the amount (e.g., replacing a letter of credit in the amount of \$500,000 with one for \$250,000) before the Commission will return the original bond.

Deadline for PAP Adoption

Winning project proponents are expected to work diligently with staff towards quick preparation and adoption of a PAP. **If a project does not expect to advance quickly towards a Project Award Package adoption, the project proponent should notify the Commission as soon as possible in writing to explain any unforeseen delays or set backs.** Projects that do not show progress towards adoption of the PAP in their quarterly reports are subject to removal from the list of winning bidders and forfeiture of their bid bonds and termination of their participation in the auction.¹² **Winning projects must pass Milestone 1 by having their Project Award Packages adopted within one year of the date of the auction, June 4, 1999.** Projects that have not achieved Milestone 1 by this date will be removed from the list of winning bidders and forfeit their bid bonds, with one exception: projects which have not amended or terminated their SO2 or ISO4 contracts prior to the deadline for passing Milestone 1, one year after the auction date, will be removed from the list of winning bidders, but will not forfeit their bid bonds (they will have their bid bonds returned within two months).

¹² Projects that win the New Technologies Account auction but cannot or will not achieve basic first steps towards operation are considered to be unfairly tying up funds that may have been allocated to competitors in the auction. Our intent is to discourage these projects by requiring forfeiture of their bid bonds.

After PAP Adoption

Funding Award Agreement

The PAP shall include a completed formal agreement signed by the authorized project representative and the Commission representative outlining the terms of the funding agreement, including purpose, amount, term, transferability, schedule, eligibility status, bid bond forfeiture, cancellation, invoicing, records retention, and contact persons for both project and the Commission. A Funding Award Agreement, prepared by Commission staff, will be issued after the PAP is submitted and reviewed, and a copy will be included in the final PAP. A sample Funding Award Agreement is included in the forms section at the end of this document.

The Funding Award Agreements associated with any adopted PAP where the project is determined by the Commission to have participated in the Existing Account will contain language explaining that the project's award has been reduced by the amount of funds received from the Existing Account, as indicated in the Notice of Auction (Section G. Award Adjustments, page 7). The Funding Award Agreements associated with any adopted PAP where the Commission has determined, pursuant an investigation under Chapter 8 of the Overall Guidelines, that the project's funding award should be reduced will contain language describing the reductions of the funding award.

The Funding Award Agreement associated with any adopted PAP with a reduced award pursuant to Rule 9 of the auction will contain language allowing for increases in the funding award as described in this paragraph. Rule 9 of the NOA indicated that if there were more bids than could be funded that those bids being considered at the time the funding limit was reached would be reduced by a percentage amount to fit within the auction limits, and the auction would be closed at that time. The rule went on to state that, "If the percentage reduction in projected generation exceeds 25 percent, the Commission may, at the Commission's discretion, change the auction closing procedure." The Commission has decided to change this procedure as follows: any funds that become available in the New Account, by January 1, 2000, due to the failure or withdrawal of participating bidders may be used to enhance or increase any awards previously reduced pursuant to Rule 9, as determined to be appropriate by the Commission.¹³ The enhancement applies only for funds previously allocated in the New Account auction on June 5, 1998. Funds that may be included in the New Account from voluntary contributions, interest, forfeited bid bonds, reallocations from other accounts, or other sources not part of the \$162 million allocated in the auction are not covered.¹⁴

¹³ In the auction, only one project had its bid award reduced. This project, submitted by Whitewater Energy Corporation won a conditional award that was reduced by approximately 73% from its bid in order to fit within the \$162 million allocation for the auction.

¹⁴ In the answer to question 64 of the questions and answers (NOA Addendum 1), the Commission stated that "funds will not be added to the Account for this auction."

If a project is forced to go off-line for an extended period of time, due to forces beyond the control of the project proponents, e.g., due to an earthquake or other natural disaster, and the project cannot make up the expected generation in the remaining term of the agreement, the project proponent should apply to the Commission for an extension of their Funding Award Agreement.

The project proponent should notify the Commission in advance of any proposed change in a project. The Commission will notify the project proponent, in writing, as to whether the change will affect the Funding Award Agreement. Transfer of the Funding Award Agreement is allowed with appropriate notice as long as the eligibility conditions of the program are maintained. Because the Funding Award Agreement is specific to the project, any transfer of the Funding Award Agreement to a new owner will require an amendment to the Funding Award Agreement and the Commission's approval.

The Commission may, at its option, terminate any Funding Award Agreement at any time upon giving 30 days advance notice in writing. This 30 day period applies from the signing of the Funding Award Agreement to the end of the period of payments to the project. Circumstances when the Commission may terminate a project proponent's Funding Award Agreement include, but are not limited to: 1) a material change in the project that results in the project becoming ineligible for the program, e.g., the project is no longer renewable, is transferred to ownership of a publicly owned utility, or is no longer separately metered from an affiliated existing portion of the facility; 2) the Commission loses contact with the project in question and cannot reestablish contact over the course of six months; 3) authorized project representatives are determined to have knowingly provided false information about the project in the bid, the PAP, the Quarterly reports, or any other official contact with the Commission; 4) the project in question is not on-line prior to January 1, 2002; or 5) the Renewable Resource Trust Fund does not receive the funds expected, e.g., the state or federal laws alter the amount of money allocated to the program or the structure of the program prior to the expected end of the funding period. The Commission may not terminate Funding Award Agreements under these circumstances if the circumstances are corrected, or if all parties agree upon an alternative course of action. The Commission does not intend to terminate Funding Award Agreements without cause.

Quarterly Reports

Quarterly reports are due from each project proponent on the last business day of each quarter (e.g., March 31, June 30, September 30, and December 31), until the project begins receiving incentive payments. Reports should be submitted to:

California Energy Commission
Renewable Technology Program, Attn: Connie Bruins

1516 Ninth Street, MS-45
Sacramento, CA 95814-5512
Fax: (916) 653-2543

The quarterly reports should document project progress to date (e.g., milestones passed), progress towards the next applicable milestone, issues affecting progress towards the next applicable milestone, proposed resolution of those problems, changes in the project status or description, violations of program requirements that have occurred, and/or expected or requested changes in schedule. The required format for quarterly reports is included in the "Forms and Samples" section at the end of this document (available in electronic format upon request).

Post-Award Project Changes

Once the PAP is adopted, the Commission must be notified ***in advance in writing*** of any proposed change in a winning project that may materially affect the purpose or process of the incentive program while the program is pending or operational for that project. These changes must be approved in writing by the Commission staff before the project can proceed. Examples of such changes are: sale of project; change in technology; increase in the amount of fossil-fuel use; increase or decrease in capacity or expected energy generated; changes in contract renegotiations affecting the project's ability to repower (if applicable); change in project location; and schedule changes such that milestone dates differ more than three months from those outlined in the PAP.

The project manager and the Renewables Program Committee will review the proposed changes and determine an appropriate response. The project proponent will be notified in writing of the project manager's/Committee's decision; if changes are not approved, that notification may include recommended penalties and/or award termination if the project proponent proceeds with the changes.

Changes that do not materially affect the incentive program's operation, such as a change in contact person, project name, or minor changes in permit requirements from those identified in the PAP, do not need to be approved in advance if they do not affect project milestone dates **by more than three months**. However, the Commission project manager must still be notified of these changes in the Quarterly reports or by separate written communication where appropriate.

Milestones 2 Through 6: Project Status Checkpoints

Each project proponent should notify the Commission in writing, in Quarterly reports or otherwise, as each milestone (detailed in the PAP) is met. Projects will not be certified by the Commission to have passed a particular milestone until they also pass the previous milestones, however two or more milestones may be passed at

the same time. The Commission may verify milestone completion through requests for detailed backup, audits, on-site visits or other methods as required. A milestone will not be considered passed by the Commission without written notification by the project proponent and potential verification by the Commission staff. Note that the milestone descriptions in Table 2 help to define when a milestone is completed. For example, Milestone 4 is not complete until foundation and piling work begins, or major equipment is delivered to the site.

If a project proponent expects to meet a milestone on a date different from the one given in the PAP, the project proponent must notify the Commission in writing and provide the new expected date for achieving the milestone as well as any other revisions to subsequent milestone dates that may be needed. The Commission will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone. The Commission's Renewable Committee will hold publicly noticed hearings to make determinations on such matters pursuant to the commission's *Overall Guidelines for the Renewable Resources Trust Fund* (Publication No. P500-97-012).

If a project proponent does not expect to achieve one of its milestones, even with delays, the project proponent must notify the Commission in writing as soon as possible. If the project proponent does not take steps that result in progress toward this or subsequent milestones, the Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination order. An award termination order will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewable Resource Trust Fund.

Table 2
Milestones 2 through 6:
General Description and Expected Timing

| Milestone | Description | Timing: Months After Project Award Package Adoption |
|------------------------------------|---|---|
| Milestone 2: Applications Filed | Filing of all relevant project construction applications, including filing for any environmental and land-use permits including CEQA. | 6 Months |
| Milestone 3: Approvals Obtained | Approval of all relevant project construction applications, including any critical path, environmental and land-use permits and CEQA certification/exemption. | 15 Months |
| Milestone 4: | Beginning of construction of the project. | 18 Months |

| | | |
|--|---|-----------|
| Construction Started | Foundation or piling work begins, or major equipment is delivered on-site. | |
| Milestone 5: Construction Progress Check | A checkpoint in the ongoing construction of a project, with the exact date and checkpoint defined in the PAP. | 24 Months |
| Milestone 6: Completed & On-line | The on-line date is the start of normal operation of the project, after any shakedown period, if necessary. | 36 Months |

A missed milestone may result in performance bonds, penalties, incentive payment forfeiture, or secondary milestones being imposed on the project. The Commission reserves the right to terminate a project award and status as winner of the auction if a milestone is missed, as described above.

As each scheduled milestone date approaches, the Commission will contact the project proponent to determine the status of the milestone. If a scheduled milestone date passes without any written notification by the project proponent, the Commission will again contact the project proponent regarding the status of the milestone. If no contact with the project proponent can be established, the Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination order.

Milestone 2 shall be deemed to be complete when: 1) the project proponent has filed the applications for permits that are necessary to commence construction of the project, 2) the project proponent has sent written notification to the Commission that Milestone 2 is complete, and 3) the Commission staff has sent written certification of completion of Milestone 2 to the project proponent. An acceptance letter or some other notice that the applicant has indeed made a reasonable filing with the particular agency or agencies is expected to be sent to Commission staff. Specific projects may have different sets of permits they must apply for to pass Milestone 2. These will be worked out with each project and described in the PAP. A project that has a critical path permit that must be decided upon prior to applications for subsequent permits should identify that permit in its PAP. Applications for permits that normally occur after the start of construction (Milestone 3) for a project, such as a permit to begin operations, will not be included in Milestone 2. These permits will still be identified in the PAP for each project, but passage of Milestone 2 will not be made contingent upon their filing.

Within two months after the Commission certifies that a project has passed Milestone 2, the remaining one half (1/2) of the winning project's bid bond will be returned or cleared. **The return of the bid bond is not contingent on the outcome of the permit filings.**

If the project requires financing or other key project component prior to filing all the applications identified in the PAP as applicable to Milestone 2, and cannot obtain that financing or component, the developer will forfeit the bid bond. After the Commission has certified passage of Milestone 2, the bid bond will not be forfeited, even if the project is subsequently not developed due to difficulties, such as financing problems, market conditions, or lack of resources. If the project proponent determines that a project will not be developed after the project passes Milestone 1, but before the project passes Milestone 2, the developer runs the risk that one-half of the bid bond will be forfeited. The Commission's Renewable Committee will hold publicly noticed hearings to make determinations on such matters pursuant to the commission's *Overall Guidelines for the Renewable Resources Trust Fund* (Publication No. P500-97-012). Project proponents may appeal forfeiture of their bid bonds to the Commission following the Commission's guidelines. Money from forfeited bonds is returned to the New Renewable Resources Account for future distribution.

Prior to Milestone 6, the project on-line date, a project proponent must apply for registration as an eligible renewable generator, using the most current version of the CEC-1890B-1 registration form. To receive funding, the project proponent must also complete the State of California Vendor Record (STD-204). The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and Federal Internal Revenue Code, Section 6109. This form must be on file with the Commission in order for any payments to be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711. The required forms and instructions for completing those forms are included in the "Forms and Samples" section at the end of this document.

Also prior to Milestone 6, a project proponent must provide proof that the project is not associated with an existing facility or proof of separate metering, if it is associated with an existing facility. Projects that are associated with an existing facility must be a separable improvement or enhancement and must be separately metered to prevent energy from an existing facility from receiving payments from the New Renewable Resources Account. Project proponents whose projects are not associated with an existing facility should provide proof of non-association. In the case that the energy produced by a project is sold to two different, eligible customers, there is no requirement that the electricity transmitted to the two parties be separately metered if the project involved is not associated with an existing facility as a separable improvement or enhancement.

As proof of on-line operation, winning bidders shall be expected to submit the Engineering Certificate included in the "Forms and Samples" section at the end of this document. This certificate must be completed and executed by a professional engineer, registered to practice in the State of California and having substantial experience in the design, construction and operation of electric power plants of the same type as the winning bidder's project. The certificate must be based on the

engineer's inspection of the facility and its operating records and must verify that the facility is in good operating condition, is operating at or within 15 percent of the facility's design capacity (as specified in the winning bidder's bid and PAP), and that the facility is using no more than 25 percent fossil fuel to satisfy its total fuel input needs, as determined on a total energy input basis. As stated in the Engineering Certificate Form, the certifying engineer must have no economic relationship to the entity or entities that designed or constructed the project or project facilities. However, the engineer may be employed by the project itself.

After A Project Comes On-line

All projects are expected to come on-line prior to January 1, 2002. Any project failing to come on-line before this date may still be eligible to receive monthly payments, but will receive no payments for any generation beyond December 31, 2006, five years from the expected on-line date. In addition, the Commission will determine whether the project should have its incentive payments reduced or canceled, or whether any other penalties should be imposed on the project, as a result of the delayed on-line date.

To receive incentive payments, on-line projects must submit monthly invoices identifying the amount of eligible electricity generated from the project.¹⁵ The monthly invoice shall consist of a completed and properly executed CEC-1890B-3 form, a copy of which is included with this guidebook, or its replacement at the time, together with an attached invoice or written statement of an independent third party verifying the amount of qualifying electricity generation sold to each eligible entity during a given billing month. The third party may be a utility, the Independent System Operator created pursuant to section 330 of the Public Utilities Code, an aggregator, or other similar entity which is independent of the project and gathers data on the amount of qualifying electricity production supplied by the project to eligible entities via the transmission grid or distribution system on a monthly basis for which funding is sought. If the independent third party's statement is not received in time to submit it with your invoice, the project proponent is expected to submit the invoice with other evidence of the amount of eligible electricity generated during the billing month. A letter explaining why the third party's statement could not be submitted and describing the evidence submitted in its place must also be submitted with the invoice. The Commission's Accounting Office will evaluate these invoices on a case-by-case basis and notify the project proponent whether the amount claimed in the invoice, or any part of it, will be accepted and paid upon. The Commission's Accounting Office may elect to pay only that portion of the amount invoiced which appears to be reasonable given the evidence submitted in support of the invoice, the prior months' generation, and other factors deemed pertinent at the time of evaluation.

¹⁵ A project that has 25% or less of its electricity generated from fossil fuel meets the definition of renewable under state law for this program, and the entire output of the facility is therefore considered renewable.

Subsequently, when the third party statement is available, it must be furnished to the Commission's Accounting Office and payment adjustments will be made for any differences in the estimated eligible generation and actual eligible generation. Please note that the monthly invoices and third party statements submitted to the Commission are public records subject to disclosure.

Invoices **may be submitted by telefax** or by mail to the Commission's Accounting Office at: **California Energy Commission, Accounting Office, 1516 9th Street, MS-2, Sacramento, CA 95814-5512, Telefax: (916)653-1435** by the due date specified in the Invoicing Schedule shown in Table 3.

Invoices which are not complete or legible will be returned by the Commission along with a written notice stating the reasons why the invoice was rejected.

The Commission intends to make incentive payments within 60 days of the end of the billing month. For example, payment for January 1999 generation would be made on or about March 31, 1999.

If a project consistently generates less than estimated in its bid or current PAP, the project will run the risk of an overestimation penalty.¹⁶ The Commission will determine, based upon the generation information submitted, whether a project may be at risk for a penalty for overestimation, and notify the project proponent. Projects that are generating less than expected may request a change in their PAP. Such a request should describe the circumstances of the lower than expected generation, and explain clearly why the shortfall in generation was not accounted for in the original bid for the project and in subsequent milestones during project construction.

The Commission may determine that some generation from a project is ineligible (for example, has been used on-site or otherwise avoided CTC payments during sale or has not been produced in conformance with the definition of renewable generation) and penalize the project by reducing subsequent production incentives appropriately. The Commission will notify a project proponent if a portion of its generation is of questionable eligibility. In an effort to avoid any penalty, the project proponent may appeal or clarify with additional information.

Table 3
Invoicing Schedule

| Billing Month | Invoice Due Date* | Anticipated Payment Date |
|---------------|-------------------|--------------------------|
| January 1999 | March 10, 1999 | March 31, 1999 |

¹⁶ If the actual generation from a winning project averages less than 85 percent of the estimated generation over the first three years of operation, the cents/kWh incentive payments to the project will be reduced by 25 percent for the remaining two years of payments. In addition, the total project award will be reduced to reflect the observed actual annual generation (as observed over the first three years) and the reduced incentive payments for the last two years. Funds removed from a project award will be held for potential reallocation per the Report.

| | | |
|---|--------------------|--------------------|
| February 1999 | April 12, 1999 | April 30, 1999 |
| March 1999 | May 10, 1999 | May 31, 1999 |
| April 1999 | June 10, 1999 | June 30, 1999 |
| May 1999 | July 12, 1999 | August 2, 1999 |
| June 1999 | August 10, 1999 | August 31, 1999 |
| July 1999 | September 10, 1999 | September 30, 1999 |
| August 1999 | October 12, 1999 | November 1, 1999 |
| September 1999 | November 10, 1999 | November 30, 1999 |
| October 1999 | December 10, 1999 | December 31, 1999 |
| November 1999 | January 10, 2000 | January 31, 2000 |
| December 1999 | February 10, 2000 | February 29, 2000 |
| January 2000 | March 10, 2000 | March 31, 2000 |
| February 2000 | April 10, 2000 | May 1, 2000 |
| March 2000 | May 10, 2000 | May 31, 2000 |
| April 2000 | June 12, 2000 | June 30, 2000 |
| May 2000 | July 10, 2000 | July 31, 2000 |
| June 2000 | August 10, 2000 | August 31, 2000 |
| July 2000 | September 11, 2000 | October 2, 2000 |
| August 2000 | October 10, 2000 | October 31, 2000 |
| September 2000 | November 10, 2000 | November 30, 2000 |
| October 2000 | December 11, 2000 | January 2, 2001 |
| November 2000 | January 10, 2001 | January 31, 2001 |
| December 2000 | February 12, 2001 | February 28 2001 |
| January 2001 | March 12, 2001 | April 2, 2001 |
| February 2001 | April 10, 2001 | April 30, 2001 |
| March 2001 | May 10, 2001 | May 31, 2001 |
| April 2001 | June 11, 2001 | July 2, 2001 |
| May 2001 | July 10, 2001 | July 31, 2001 |
| June 2001 | August 10, 2001 | August 31, 2001 |
| July 2001 | September 10, 2001 | October 1, 2001 |
| August 2001 | October 10, 2001 | October 31, 2001 |
| September 2001 | November 12, 2001 | November 30, 2001 |
| October 2001 | December 10, 2001 | December 31, 2001 |
| November 2001 | January 10, 2002 | January 31, 2002 |
| December 2001 | February 11, 2002 | February 28, 2002 |
| Similar schedule through end of 2006, if applicable. | | |
| * Invoices are due approximately 40 days after the billing month. | | |

Definitions

affiliate—any person, corporation, utility, partnership, or other entity five percent or more of whose outstanding securities are owned, controlled, or held with power to vote, directly or indirectly either by a utility or any of its subsidiaries, or by that utility's controlling corporation and/or any of its subsidiaries as well as any company in which the utility, its controlling corporation, or any of the utility's affiliates exert substantial control over the operation of the company and/or indirectly have substantial financial interests in the company exercised through means other than ownership.

billing month -- the period of time coinciding with a calendar month in which a registered Renewable Supplier is entitled to receive an incentive payment pursuant to this guidebook.

competitive transition charge (CTC) -- a charge authorized by the California Public Utilities Commission that is imposed on investor-owned utility (IOU) ratepayers (i.e. customers that receive electricity distribution services from the IOU) to recover the costs of utility investments made on behalf of their former customers. The CTC is to be collected in a competitively-neutral manner that does not increase rates for any customer class solely due to the existence of transition costs. [Public Utilities Code Section 367 (added by AB 1890)]

equivalently separated -- a transfer of project ownership to an entity such as a utility affiliate such that the project's construction, operating, administrative and management costs, including but not limited to payroll, taxes, shareholder services, insurance, financial planning and analysis, corporate security, human resources (compensation, benefits, employment policies), employee records, regulatory affairs, lobbying, legal, pension management, computer services, offices and office equipment and facilities, and advertising are separated from the utility costs and not charged back to the utility ratepayers directly or indirectly in any form or manner, such as through arrangements for shared employees or the purchases of goods and services.

facility -- See **project**.

fair market value -- The value that a project would receive if sold. Can be determined by independent assessor in lieu of sale.

in-state renewable generation -- biomass, solar thermal, photovoltaic, wind, geothermal, small hydropower of 30 megawatts or less, waste tire, digester gas, landfill gas, and municipal solid waste generation technologies, as described in the Policy Report on AB 1890 Renewables Funding, including any additions or enhancements thereto, that are produced in facilities located in this state and placed in operation after September 26, 1996, or that were operational prior to that date, and that are also certified under Section 292.207 of Title 18 of the Code of Federal Regulations as a qualifying small power production facility either located in California, or that began selling electricity to a California electrical corporation prior to September 26, 1996, under a Standard Offer Power Purchase Agreement authorized by the California Public Utilities Commission.

investor-owned utility -- an utility that is organized as a tax-paying business, whose properties are managed by representatives elected by shareholders.

kilowatt (kW) -- one thousand watts. A unit of measure for the amount of electricity needed to operate given equipment. A typical home using central air conditioning and other equipment might have a demand of 4-6 kW on a hot summer afternoon.

kilowatt hour (kWh) -- the most commonly-used unit of measure telling the amount of electricity consumed over time. It means one kilowatt of electricity supplied for one hour. A typical California household consumes about 500 kWh in an average month.

local publicly-owned electric utility -- as defined in Public Utilities Code section 9604, subdivision (d), and which includes a municipal utility district, a public utility district, an irrigation district, or a joint powers authority made up of one or more of these entities.

metered -- The independent measurement with a standard meter of the electricity generated by a project or facility.

on-site generation -- any electricity that is generated and used to serve load on that same site.

Power Exchange (PX) -- an independent, nonprofit entity created pursuant to AB 1890 that is responsible for conducting an auction for the generators seeking to sell energy and for loads which are not otherwise being served by bilateral contracts. The PX will be responsible for scheduling generation, determining hourly market clearing prices for its market, and settling and billing for suppliers and retailers using its market.

project -- A group of one or more pieces of generating equipment, and ancillary equipment necessary to attach to the transmission grid, that is unequivocally separable from any other generating equipment or components. Two or more sets of generating equipment that are contiguous, or that share common control or maintenance facilities and schedules and are located within a one mile radius shall constitute a single project.

repower(ed) -- generically refers to replacing a significant portion of the generating equipment at an existing facility. In the context of this report, refers to an existing renewable generation facility that retrofits its existing facility to the point that the value of the retrofit is at least 80 percent of the value of the renovated facility.

Forms and Samples

- Instructions for completing CEC-1890B-1, CEC-1890B-3, and STD-204
- CEC-1890B-1 -- Registration Form for New Renewable Suppliers
- CEC-1890B-3 -- Monthly Invoice Report for New Renewable Resources Account
- STD-204, Vendor Data Record
- Quarterly Status Report Format
- Overall Project Award Package Declaration
- Sample Funding Award Agreement
- Engineer's Certification of On-line Operations

Instructions for completing CEC-1890B-1, Registration Form for New Renewable Suppliers

For initial registration, please check the box in the upper right-hand corner for "Original."

1. **Name of Facility** -- Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name
2. **Physical Address of Facility** -- Actual physical location of the generating facility
3. **Company** -- Name of company that owns/operates facility
4. **Contact Person** -- Name, address, and telephone/telefax number for the contact person for any questions or concerns the Commission may have
5. **Energy Source** -- Energy source used for generation at the facility.
6. **Capacity of Facility** -- The sum capacity, in kilowatts, of all electrical generating equipment employed at the facility.
7. **Operational Date** -- Date the facility began generating electricity
8. **Percentage of Fossil Fuel Used (if applicable)** -- Please indicate the overall percentage of fossil fuels used (if any) on a total energy input basis for the 1996 calendar year; if none, enter N/A
9. **Declaration** -- The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company

Instructions for completing STD-204, Vendor Data Record

1. **Return Form To** -- Already completed by the Commission
2. **Vendor information** -- Please enter your business name and address; if you are a sole proprietor, enter the owner's full name
3. **Vendor Entity Type** -- Please check the appropriate box
4. **Vendor's Taxpayer ID Number** -- Please enter your federal ID number. If you are an individual/sole proprietor, please enter your social security number
5. **Vendor Residency Status** -- Please check the appropriate box corresponding to your residency status
6. **Registering Signature** -- The registration must be signed by an authorized representative or officer such as the Chief Executive Officer or Chief Financial Officer of the corporation, or a similar officer with authority to bind the company

Instructions for completing CEC-1890B-3, Monthly Invoice Report for New Renewable Resources Account

1. **Company Name** -- Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name.
2. **Statement Period** -- The billing month and year
3. **Statement Date** -- Date that the invoice is submitted to the Commission
4. **CEC ID** -- The Registered Renewable Supplier ID number assigned to the facility by the Commission
5. **QFID** -- The ID number assigned by your utility. This is sometimes also called the log number
6. **Production (in kWhs)** -- Number of kWhs of generation eligible for funding in a given billing month, and based on the statement of an independent third party. If eligible generation is sold to more than one entity in a given month, attach a separate statement itemizing the amount of eligible generation sold to each entity.
7. **Declaration** -- The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company

Note: For administrative convenience, the format of this form, as well as the information requested, may be modified in the future. [Such modifications will not be deemed substantive in nature.]

Signature:

MONTHLY INVOICE REPORT FOR RENEWABLE SUPPLIERS NEW RENEWABLE RESOURCES ACCOUNT



Please submit invoice to:

California Energy Commission
Renewable Technology Program
Attention: Accounting Office (MS-2)
1516 Ninth Street, Sacramento, CA 95814-5512
Telefax: (916) 653-2543

Instructions for completing this form are contained in Volume 2B of
the Guidebook for the Renewable Technology Program

Please print or type

| | | | | | | | | | | |
|--|--|--|--|--|--|--|--------------------|--|--|--|
| 1. Company Name: | | | | | | | | | | |
| 2. Statement Period: | | | | | | | 3. Statement Date: | | | |
| 4. CEC ID #: | | | | | | | | | | |
| 5. Production (in kWhs) | | | | | | | | | | |
| Please check one: | | | | | | | | | | |
| <input type="checkbox"/> Estimated Generation (attach explanation letter) | | | | | | | | | | |
| <input type="checkbox"/> Based upon attached third-party statement | | | | | | | | | | |

7. DECLARATION

I, (print name and title) _____, declare under penalty of perjury that the information provided in this invoice is true and correct to the best of my knowledge and that I, as an authorized agent of the above named company, have authority to submit this invoice on the company's behalf. I further declare under penalty of perjury that I have reviewed the electricity production data included in the attached statement(s) and that, to the best of my knowledge, it does not overstate the amount of electricity production supplied to the transmission grid or distribution system by the above named company, and that the following statements are true and correct to the best of my knowledge with respect to the energy identified in item 6 of this invoice: (a) the energy does not receive any fixed energy or capacity payments under a contract with an electrical corporation; (b) the energy was not used for on-site (self) generation; and (c) the energy is not excluded from an applicable competitive transition charge.

Dated this _____ day of _____, 19_____, at _____
(day) (month) (year) (place of execution)

Signature: _____

ARE YOU A RESIDENT OR A NONRESIDENT?

Each corporation, individual/sole proprietor, partnership, estate or trust doing business with the State of California must indicate their residency status along with their vendor identification number.

A corporation will be considered a "resident" if it has a permanent place of business in California. The corporation has a permanent place of business in California if it is organized and existing under the laws of this state or, if a foreign corporation has qualified to transact intrastate business. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

For individuals/sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For withholding purposes, a partnership is considered a resident partnership if it has a permanent place of business in California. An estate is considered a California estate if the decedent was a California resident at the time of death and a trust is considered a California trust if at least one trustee is a California resident.

More information on residency status can be obtained by calling the Franchise Tax Board at the numbers listed below:

From within the United States, call 1-800-852-5711
From outside the United States, call 1-916-854-6500
For hearing impaired with TDD, call 1-800-822-6268

ARE YOU SUBJECT TO NONRESIDENT WITHHOLDING?

Payments made to nonresident vendors, including corporations, individuals, partnerships, estates and trusts, are subject to withholding. Nonresident vendors performing services in California or receiving rent, lease or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for state income taxes. However, no withholding is required if total payments to the vendor are \$1500 or less for the calendar year.

A nonresident vendor may request that income taxes be withheld at a lower rate or waived by sending a completed form FTB 588 to the address listed below. A waiver will generally be granted when a vendor has a history of filing California returns and making timely estimated payments. If the vendor activity is carried on outside of California or partially outside of California, a waiver or reduced withholding rate may be granted. For more information, contact:

Franchise Tax Board
Withhold at Source Unit
Attention: State Agency Withholding Coordinator
P.O. Box 651
Sacramento, CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

If a reduced rate of withholding or waiver has been authorized by the Franchise Tax Board, attach a copy to this form.

PRIVACY STATEMENT

Section 7(b) of the Privacy Act of 1974 (Public Law 93-5791) requires that any federal, state, or local governmental agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State must provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646 to facilitate tax compliance enforcement activities and to facilitate the preparation of Form 1099 and other information returns as required by the Internal Revenue Code, Section 6109. The TIN for individual and sole proprietorships is the Social Security Number (SSN).

It is mandatory to furnish the information requested. Federal law requires that payments for which the requested information is not provided be subject to a 31% withholding and state law imposes noncompliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact business.

Please call the Department of Finance, Fiscal Systems and Consulting Unit at (916) 324-0385 if you have any questions regarding this Privacy Statement. Questions related to residency or withholding should be referred to the telephone numbers listed above. All other questions should be referred to the requesting agency listed in Section 1.

Project Name: _____

Contact Person: _____

Address/Phone/Fax: _____

Date: _____

[illegible]

QUARTERLY REPORT
NEW RENEWABLE RESOURCES ACCOUNT

| Milestone | Expected (or Actual) Completion Date ¹ | Permitting Agency (for milestones 2 & 3) | Check if Completed | Check if Schedule Has Changed from: (please check applicable box) |
|--|---|---|-----------------------|--|
| Milestone #3 - Permit Approvals Obtained | | | | |
| Critical Path Permit ² | | | | |
| CEQA Analysis (lead agency) | | | | |
| Other Applicable Permits (please itemize) | | | | |
| | | | | |
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| | | | | |
| | | | | |
| | | | | |
| Milestone #4 - Construction Begun | | | | |
| | | | | |
| Milestone #5 - Construction Progress Check (as defined in project award package) | | | | |

**QUARTERLY REPORT
NEW RENEWABLE RESOURCES ACCOUNT**

| <u>Milestone</u> | <u>Expected (or Actual) Completi on Date¹</u> | <u>Permitting Agency (for milestones 2 & 3)</u> | <u>Check if Completed</u> | <u>Check if Schedule Has Changed from: (please check applicable box)</u> |
|---|--|---|-------------------------------|--|
| Milestone #6 - Completed and On-Line | | | | |

1. Describe progress of project since the last submitted Quarterly Status Report³ (attach additional pages if necessary):

2. Describe any issues or problems affecting progress of project toward the next applicable milestone (attached additional pages if necessary):

3. Describe the proposed resolution to the issues/problems described in item #2 above (attached additional pages if necessary):

4. Explain any anticipated/actual changes to the project development schedule since the last submitted Quarterly Status Report (attach additional pages if necessary):

**QUARTERLY REPORT
NEW RENEWABLE RESOURCES ACCOUNT**

DECLARATION:

I certify that the foregoing information is true and complete to the best of my knowledge.

Date:

Signature:

Name and Title:

¹ Should reflect project's current schedule for milestones not yet completed or actual completion date for milestones completed.

² The Critical path Permits for all non-thermal projects and thermal projects exempt from CEC Site Certification are (a) for Geothermal, County Conditional use Permit or Special Zone permit; (b) for Biomass, County Conditional Use Permit or Special Zone Permit, or Air Quality Permit; (c) for Wind, County Conditional Use Permit or Special Zone Permit; (d) for Hydro, FERC License or Exemption. California Energy Commission Site Certification is required for non-exempt thermal projects over 50 MW.

³ For the initial Quarterly Status Report, describe project progress since project was notified that it was an auction winner.

Signature: _____

SAMPLE FUNDING AWARD AGREEMENT

1. **Purpose.** This funding award agreement ("Agreement") is entered into between _____ ("Awardee") and the California Energy Commission ("Commission") for the purpose of creating a funding award pursuant to the Commission's Renewable Resource Trust Fund Guidelines ("Renewable Guidelines") and Notice of Auction 500-97-506 ("NOA"). Awardee was selected as a winning bidder under the NOA and must comply with the terms and conditions of the Renewable Guidelines, the NOA, and this Agreement to be eligible for funding from the New Renewable Resources Account.
2. **Incorporation by Reference.** Neither the Commission's Renewable Guidelines nor the NOA are attached hereto, but are incorporated by reference and made a part of this Agreement.
3. **Funding Award Amount.** The total amount of Awardee's funding award under this Agreement is \$ _____, and is based on the Awardee's bid of _____ cents/kWh incentive request and the following annual levels of eligible electrical power generation, as in Awardee's bid.

| | | |
|-------------------|-------|-----|
| Year 1 Generation | _____ | kWh |
| Year 2 Generation | _____ | kWh |
| Year 3 Generation | _____ | kWh |
| Year 4 Generation | _____ | kWh |
| Year 5 Generation | _____ | kWh |
| Total | _____ | kWh |

Should Awardee's project fail to generate eligible electrical power at these levels, Awardee's funding award may be canceled or reduced for cause as specified in the NOA.

4. **Term.** The term of this Agreement shall be from the date of execution by both Awardee and the Commission to five years after the project's on-line date or December 31, 2006, whichever occurs first, unless terminated earlier by the Commission pursuant to the Renewable Guidelines or the NOA.
5. **Non-Transferability of Funding Award.** The funding award created by this Agreement is specific to Awardee and the _____ project described in the attached Project Description, which is hereby incorporated by reference. This funding award is not transferable or assignable to another project, and may not be assigned to another entity without the Commission's prior written permission.
6. **Assignment.** Awardee shall not assign its rights nor delegate its duties under this Agreement without the Commission's advance written approval.
7. **Indemnification.** Awardee agrees to indemnify, defend and save harmless the Commission, its officers, agents and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, materialmen, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with this funding agreement award, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Awardee in the performance of work under this award.
8. **Review and Disclaimer.** Review by the Commission of the design, operation, or maintenance of Awardee's project or related interconnection or generation facilities shall not constitute any representation as to the economic or technical feasibility, operational capacity or reliability of such facilities. Awardee shall in no way represent to any third party that the Commission's review of Awardee's project is a representation by the Commission as to the project's economic or technical feasibility, operational capability, or reliability. Awardee is solely responsible for its project's economic and technical feasibility, operational capability, and reliability.

SAMPLE FUNDING AWARD AGREEMENT

9. **Project Schedule.** Awardee shall complete the project milestones by the dates identified in the Project Schedule, attached hereto and incorporated by reference, or the Commission-approved changes or delays thereto. Failure to do so may result in Awardee's funding award being canceled or reduced for cause as specified in the NOA.
10. **Eligibility Status.** Awardee shall provide evidence of project eligibility as specified in the NOA as part of the Project Award Package (milestone #1). Failure to do so may result in Awardee's funding award being canceled or reduced for cause as specified in the NOA.
11. **Bid Bond Forfeiture.** Awardee acknowledges that its bid bond may be forfeited in whole or in part for failure to meet project milestones pursuant to the Renewable Guidelines and the NOA.
12. **Funding Award Cancellation.** Awardee acknowledges that its funding award or funding award payments may be reduced or canceled for cause pursuant to the Renewable Guidelines and the NOA.
13. **Funding Award Payments.** Awardee acknowledges that its eligibility to receive funding award payments under this Agreement shall be contingent upon its satisfaction of all terms and conditions set forth in the Renewable Guidelines, the NOA and this Agreement, including construction and operation of the project as described in the Project Description attached hereto.
14. **Invoicing.** Awardee shall invoice for payments under this Agreement in accordance with the procedures specified in the applicable Renewable Guidelines.
15. **Records Retention.** Unless stated otherwise in the applicable Renewable Guidelines, Awardee shall:
 - keep all records relating to and verifying the accuracy of information stated in an invoice for payment submitted pursuant to this Agreement for a period not less than three years after the end of the calendar year in which payment for the invoice is made;
 - keep all records relating to and verifying the accuracy of information stated in a report submitted to the Commission pursuant to the Renewable Guidelines for a period not less than three years after the end of the calendar year in which the report is submitted; and
 - keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.
16. **Awardee Contact.** Awardee's Contact under this Agreement shall be _____. Any notice to Awardee under this Agreement shall be forwarded to the Awardee contact at the following address:

SAMPLE FUNDING AWARD AGREEMENT

17. **Commission Contact.** The Commission's contact under this Agreement shall be _____. Any notice to the Commission under this Agreement shall be forwarded to the Commission contact at the following address:

California Energy Commission
Ninth Street, MS-____
Sacramento, California 95814
Attn: _____

18. **CEQA Analysis.** The Commission's determination of the _____ project pursuant to the California Environmental Quality Act (CEQA) is attached and concludes that:

- the project has complied with CEQA, or
- the project is exempt from CEQA under _____, or
- the project is subject to a formal environmental study under CEQA because of _____ and that _____ is the lead agency responsible for conducting a formal environmental study and preparing related environmental documents. Approval of this Funding Award Agreement is expressly conditioned on this lead agency's CEQA study and approval of the project. Awardee shall provide Commission staff with a copy of the lead agency's environmental documents once prepared and finalized and proof of the agency's approval of the project within 30 calendar days of completing milestone #3 as identified in the attached project milestone. Awardee acknowledges that its failure to secure project approval by the _____ lead agency will result in the cancellation of this Funding Award Agreement and Awardee's funding award from the New Renewable Resources Account.

19. **Understanding of Renewable Guidelines and Their Application.** Awardee warrants that it has read and understands the Commission's Renewable Guidelines applicable to the New Renewable Resources Account, and acknowledges that these guidelines govern the payment of any funds under this Agreement and authorize the Commission to cancel or reduce Awardee's funding award or funding award payment for reasonable cause, to conduct random audits of Awardee's invoices, to conduct inspections of Awardee's facilities and books as part of these audits, to initiate enforcement actions to recover any funding award payments the Awardee was not otherwise entitled to receive, to initiate investigations of Awardee to verify fraud or misrepresentation in connection with Awardee's application for or receipt of its funding award or a funding award payment, or to take action as otherwise authorized by the Renewable Guidelines to properly administer the Renewable Resource Trust Fund. Awardee further understands that the Commission's Renewable Guidelines are subject to change and that any changes made to the Renewable Guidelines shall apply to Awardee and its funding award under this Agreement.

20. **Law Governing.** This Agreement shall be interpreted, governed and construed under the laws of the State of California.

Signature Blocks of
Authorized Representative for Project and the Renewables Program Committee

**ENGINEERING CERTIFICATION
ENGINEER'S CERTIFICATION OF ON-LINE OPERATIONS**

(To be provided as evidence of facility operation pursuant to
Milestone #6 of the operator's Project Award Package)

I, _____, am a Professional Engineer registered to
(print name of engineer)

practice in the State of California. I have substantial experience in the design, construction,
and
operation of electric power plants of the same type as the _____
(print name of facility)

("facility"), operated by _____ ("operator") and
(print name of operator)

sited at _____ in _____
(print location of facility) (print name of county)

County, State of California.

I have made a physical inspection of said facility and its operations and the plant's O&M policies bearing the stamp of the certifying engineer. It is my professional opinion, based on my inspection of the facility and its operating records, as well as the facility's general appearance, that the facility is in reasonably good operating condition and generating at or near (within 15%) of its designed capacity of _____ kW as specified in the Operator's bid to Notice of Auction 500-97-506 and Project Award package, and should continue producing at or near this designed electrical capacity for at least five (5) years, and that at the time of my inspection the facility was using no more than 25% fossil fuel to satisfy its total fuel input needs, as determined on a total energy input basis calculated over the preceding _____ period of time.

I have no economic relationship to the entity or entities that designed or constructed said facility and have made my analysis of the facility's operation independently.

I hereby CERTIFY that the above statements are complete, true, and accurate to the best of my knowledge and I therefore set my hand and seal below.

Signed and Sealed

Affix P.E. Stamp

Date: _____

Signature: _____